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Reply Brief.*

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REMARKS

I.   Response to the Examiner's Withdrawn Rejections

Appellants hereby acknowledge that the Examiner has withdrawn the rejection of claims 1 and 7 under 35 U.S.C. §102(b) as allegedly being anticipated by the U.S. Patent No. 4,290,467 to Schmidt (hereinafter referred to as "the '467 Patent"), as set forth in the Examiner's Answer. Appellants further acknowledge that the Examiner has withdrawn the rejection of claims 2-6 under 35 U.S.C. §103(a) as allegedly being unpatentable over the '467 Patent, as set forth in the Examiner's Answer.

II.   Response to the Examiner's Assertions Regarding the Nonstatutory Obviousness-Type Double Patenting Rejection of Claims 1 and 3-10

Claims 1 and 3-10 presently stand rejected on the grounds of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1 and 5 of U.S. Patent No. 6,260,705 to Montepiani *et al.* (hereinafter referred to as "the '705 Patent") in view of the '467 Patent.

A.   Response to the Examiner's First Assertion

In the Examiner's Answer filed September 28, 2007, the Examiner asserts at page 6:

> The "slit" (or the open area between 25' and 21' of Fig. 9) of Schmidt meets the recitation of an "open mouth" to same degree as structurally set forth in independent claim 1. Although appellants intended use of the "open mouth" imparts no further structure to independent claim 1 to define the open area between 25' and 21' of Schmidt, the Schmidt reference clearly discloses the open area between 25' and 21' to be a portion of a bag where in a product or article is introduced into the open bag via a filling nozzle.

Appellants respectfully disagree. To elaborate, Appellants respectfully submit that as used in the subject application and claims, the term "mouth" refers to a means by which intended bag contents are inserted into the bag, and thereafter sealed to contain bag contents. Appellants particularly point to page 3, lines 11-16 of the subject specification, which recites: